

**Cooperating Agency Agreement
between
United States Coast Guard
and
Minerals Management Service**

I. Introduction

This Cooperating Agency Agreement outlines responsibilities, established by the U.S. Coast Guard (Coast Guard) and the Minerals Management Service (MMS), associated with National Environmental Policy Act (NEPA) requirements for deepwater ports located in the Outer Continental Shelf (OCS) region, including the development of Environmental Impact Statements (EISs), Environmental Assessments (EAs), and subsequent supplements or revisions to these documents.

The Deepwater Ports Act (DWPA) of 1974, as amended by the Maritime Transportation Security Act (MTSA) of 2002, provides for the licensing of oil and natural gas deepwater ports in the OCS. Processing an application for a deepwater port, compliance with NEPA requirements, and coordination activities have been delegated to the Coast Guard and the Maritime Administration (MARAD). The Secretary of the Department of Transportation (DOT) has delegated the authority to issue a deepwater port license to MARAD. Determination of the fair market rental value of deepwater ports in the OCS rests with the Secretary of the Interior.

Under Section 6 of DWPA (33 U.S.C. 1505), the Commandant of the Coast Guard is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard utilized guidance published by the Council on Environmental Quality (CEQ) (40 CFR Sections 1500 through 1508), DOT Order 5610.10C (Procedures for Considering Environmental Impacts), and Coast Guard Commandant Instruction M16475.1D (National Environmental Policy Act Implementation Procedures and Policy for Considering Environmental Impacts).

Under the OCS Lands Act, MMS has the authority to manage the exploration for, and the development and production of mineral resources located in the OCS. The MMS also has the authority for the issuance of pipeline rights-of-way for the transportation of oil, natural gas, sulfur, or other minerals. Under the Oil Pollution Act (OPA) of 1990 and Executive Order (EO) 12777, MMS has responsibilities associated with oil spill prevention, planning, preparedness, and response. The MMS thus has expertise in these as well as many other areas that are relevant to the DWPA license review process. As a result, MMS meets the criteria of a "cooperating agency" which is defined as "... any Federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or any other major Federal action significantly affecting the quality of the human environment."

This agreement does not subjugate any Coast Guard regulatory authorities or responsibilities, or those of MMS, but serves to clarify roles and responsibilities in the NEPA process. In this regard, the Coast Guard and MMS agree to cooperate in the NEPA process on the Port Pelican, LLC, and El Paso Energy Bridge GOM, LLC, port applications, as well as all future deepwater port applications for facilities to be located in the OCS.

II. Coast Guard Responsibilities

Subject to the provisions of this agreement and applicable law and regulations, the Coast Guard is the lead agency for NEPA compliance and preparation of necessary NEPA documents for deepwater ports. In this capacity, the Coast Guard will:

1. Designate a primary point of contact for matters related to this agreement.
2. Issue and/or administer contracts for the preparation of NEPA documents and associated research.
3. Provide MMS headquarters and the appropriate MMS regional office with hard copies of deepwater port applications within five working days of receipt.
4. During the initial 21-day review period, allow MMS to review the application for "completeness" and to identify to the Coast Guard, missing data, corrections to incorrect data, and additional information to supplement the application before it is deemed acceptable by the Coast Guard and MARAD.
5. Ensure that data requested of the applicant by the Coast Guard on behalf of the MMS is obtained promptly and forwarded to appropriate MMS staff for review and acceptance.
6. Determine whether an application appears to contain all required information prior to publishing notice of the application in the Federal Register.
7. Provide MMS headquarters and the appropriate MMS regional office with hard and electronic copies of any interim draft, draft, interim final, and final versions of the NEPA document prepared by the Coast Guard or its contractor when MMS review and comment is required.
8. Determine if additional information is needed for completing the application review, including the NEPA analysis, and if necessary suspend the processing of the application until such information is provided.
9. Use the existing environmental analysis, and/or mitigations, and proposals prepared by MMS on issues over which it has jurisdiction by law or special expertise, to the maximum extent possible, consistent with its responsibility as lead agency.

III. MMS Responsibilities

Subject to the provisions of this agreement and applicable law and regulations, MMS is a cooperating agency for NEPA compliance and preparation of necessary NEPA documents for deepwater ports. In this capacity, MMS will:

1. Designate a primary point of contact in headquarters and regional offices for matters related to this agreement.
2. Provide the Coast Guard with a listing containing names and contact information for subject matter experts available to assist in NEPA activities.
3. Participate in pre-application meetings with a prospective deepwater port applicant to assist in the development of the application, its environmental report, and other necessary information submittals.
4. Perform a completeness review of the deepwater port application within five working days of receipt of the document and provide the Coast Guard with written comments specifying that the application is either complete or that it is deficient due to absence of noted items or contains erroneous information.
5. Participate in the initial phases of the scoping processes to ensure that the proper range of issues is determined and to identify information requirements early in the EIS or EA preparation processes.
6. Provide written comments on and recommendations for improvement of the interim draft, draft, and interim final versions of the NEPA document prepared by the Coast Guard or its contractor, where any of the subject documents are found to be incomplete, inadequate, or inaccurate.
7. Based upon staff availability, funding, and expertise; assist in the development of information and the preparation of environmental analyses at the request of the Coast Guard.
8. At the earliest possible time, notify the Coast Guard of the need for additional information to complete required analyses.
9. Recommend mitigations to avoid or reduce impacts to environmental resources.

IV. Joint Responsibilities

The Coast Guard and MMS will:

1. Make every effort to meet legally mandated schedules for completing the application review process dictated by the 21 days for application completeness review, a maximum of 240 days for license application processing and convening the final public hearing on the application, including completion of all NEPA related meetings and document publication. Following the final public hearing, the DWPA mandates 90 days for determination of license approval/denial, including 45 days for final agency comment on the application and 45 days to make the final administrative determination on the application.
2. Immediately share data that is critical to the development of NEPA documents and in meeting port application processing schedules.
3. Engage in formal and informal discussions as needed to ensure open communication of issues impacting the NEPA process.

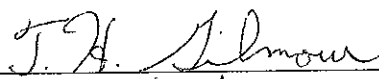
V. Effective Date

This agreement will become effective on the date of signature by the Coast Guard Assistant Commandant of Marine Safety, Security and Environmental Protection, and the MMS Associate Director of Offshore Minerals Management.

VI. Termination

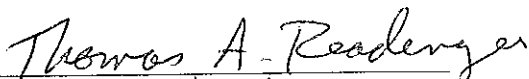
This agreement may be terminated by written notice by either of the below signatories, or their designees, at any time.

Rear Admiral Thomas H. Gilmour


Date: 8/13/2003

Assistant Commandant
Marine Safety, Security, and Environmental Protection
U.S. Coast Guard
Department of Homeland Security

Thomas A. Readinger
Associate Director
Offshore Minerals Management
Minerals Management Service
Department of the Interior


Date: 8/13/03